

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

JAMES F. MASON,

Plaintiff,

VS .

UNITED STATES OF AMERICA,

Defendant.

No. 05-2820-M1/P

ORDER OF DISMISSAL

Plaintiff James F. Mason, a resident of Arkansas, filed a pro se complaint pursuant to, inter alia, the Federal Tort Claims Act, 28 U.S.C. 2671 et seq., on October 31, 2005. The Court issued an order on December 15, 2005 directing the plaintiff, within forty-five days, to file a properly completed in forma pauperis affidavit or pay the \$250 civil filing fee. On December 22, 2005, plaintiff filed a motion, entitled "Motion to Amend Order Directing Plaintiff to File a Properly Completed In Forma Pauperis Affidavit or Pay the Civil Filing Fee," which sought reconsideration of that order. The Court issued an order on January 9, 2006, denying the motion for reconsideration and notifying the plaintiff that the due date for the plaintiff's compliance with the previous order was unchanged. On January 19, 2006, the plaintiff filed a document, entitled "Reply to January 9, 2006 Order and Notice of Intent," which expressed his disagreement with the Court's conclusion that

28 U.S.C. § 1916 is inapplicable to this case and reiterated his refusal to file an in forma pauperis affidavit.¹

The plaintiff has failed to comply with the December 15, 2005 order, and the time set for compliance has expired. The order provided, in pertinent part, that "[f]ailure to timely comply with this order will result in dismissal of this action, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute." 12/15/05 Order at 2. Accordingly, the Court DISMISSES this action without prejudice, pursuant to Fed. R. Civ. P. 41(b), for failure to prosecute.

IT IS SO ORDERED this 13th day of February, 2006.

/s/ Jon P. McCalla
JON PHIPPS MCCALLA
UNITED STATES DISTRICT JUDGE

¹ The substantive reasons why 28 U.S.C. § 1916 is inapplicable are set forth in the January 9, 2006 order and will not be repeated here. The plaintiff's latest submission elaborates on the argument contained in his December 22, 2005 filing but does not address the analysis in the January 9, 2006 order.